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## Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

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**Title 46**  
**PROFESSIONAL AND OCCUPATIONAL STANDARDS**  
**Part V. Automotive Industry**  
**Subpart 1. Motor Vehicle Commission**

**Chapter 1. General Requirements**

**§101. License Required**

A. No one [not excepted by R.S. 32:1252(3)] shall engage in business in the capacity of motor vehicle dealer or motor vehicle salesman, or manufacturer, distributor or wholesaler of motor vehicles, or factory branch, distributor branch or factory representative or distributor representative, in Louisiana without first obtaining a license for the particular capacity under the provisions of the Louisiana Motor Vehicle Commission Law (R.S. 32:1251-1260, relative to the distribution and sale of new or unused motor vehicles).

B. Anyone acting in more than one of such capacities must qualify for and have a current license for each such capacity; for example, the holding of a license as a motor vehicle dealer does not permit such licensee to make sales for resale.

C. Anyone having more than one place where such business is carried on or conducted must obtain and hold a current license for each place of business.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1254 and R.S. 32:1253.

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975.

**§103. Application for License**

A. All applications for licenses under the Louisiana Motor Vehicle Commission Law, hereafter for convenience referred to simply as the "law," shall be made upon forms prescribed by the Louisiana Motor Vehicle Commission, hereinafter for convenience referred to simply as the "commission," and every such applicant shall furnish such information and such accompanying documents as may be required by said forms, copies of which are annexed hereto and made part hereof, and such supplemental information as may be required by the commission.

B. Application Fee. No application will be considered unless accompanied by the fee or fees prescribed by law.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1254.

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975.

**§105. Violation of License Requirement**

A. Any persons, firms, associations, corporations or trusts engaging in any business subject to license under the Louisiana Motor Vehicle Commission Law without first obtaining such license, are in violation of the law from the moment they first begin business without such license, and thereby subject to criminal prosecution and other actions provided by law.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1254.

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975.

**§107. Communications with Commission**

A. All communications with the commission should be addressed to its office, 234 Loyola Avenue, New Orleans, Louisiana 70112. All necessary forms may be obtained at such office.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1253.

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975.

**§109. Powers and Duties of Executive Secretary**

A. The executive secretary of the commission shall have charge of the office of said commission, the clerical help therein, the books and records of the commission, and the financial accounts of the commission, subject to the orders and instructions of the commission. He shall attend to such routine correspondence and other activities as may not require official action by the commission itself, and shall perform such other tasks as the commission may delegate to him. He shall endeavor to obtain all necessary information and so handle and process the preliminary aspects of matters which are to come before the commission for official action that when placed before the commission the matter will be in shape for proper official action.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1253.

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975.

**§111. Subpoenas**

A. The executive secretary shall, as and when directed by the commission, issue such subpoenas as the commission may designate to bring before the commission any person in

this state, to give testimony under oath, as well as for the purpose of compelling production of records and papers, relative to matters to be investigated, considered or heard by the commission.

**AUTHORITY NOTE:** Adopted in accordance with R.S. 32:1253.

**HISTORICAL NOTE:** Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975.

## Chapter 3. Hearing Procedures

### §301. Hearings

A. The time and place for hearing to be held by the commission shall be designated by the commission. Ten days' written notice, in accordance with R.S. 32:1256, will be given to the licensee concerned, of hearings to be held to consider suspension or revocation of license. An applicant whose license has been denied and whose request for a hearing has been received by the commission will be given 10 days' written notice of the time and place set for such hearing unless such notice is expressly waived, in writing, by the applicant concerned. The notice of hearing to consider suspension or revocation shall include all charges made against a licensee in sufficient detail that the accused may know the violations from which the charges originated. In case the notice is of a hearing to review the denial of a license, the notice shall contain the reason or reasons for such denial of which the applicant has been previously notified in order that the applicant shall have a full opportunity to disprove, avoid, or otherwise meet such reasons by evidence. Such notice may be sent by registered or certified mail to the last address furnished to the commission by the applicant or the licensee.

B. Within 10 days from the time of receipt of the notice of hearing, the accused licensee shall file in duplicate with the executive secretary of the commission an answer admitting or denying separately and in good faith each statement of fact made in the notice. If the accused has no knowledge of the truth of any particular fact, he shall so state and it shall be taken as denied. Any fact not expressly denied, or knowledge thereof disclaimed, shall be considered admitted. This rule is for the purpose of preventing the loss of time and expense frequently occasioned in proving and recording facts about which there is not real controversy.

C. Where an answer is filed which puts in issue material facts in the notice, the commission will arrange for a reporter to transcribe the proceedings. Where no such answer is filed, the commission may consider the charges as confessed and take appropriate action.

D. Where the charges against the accused are based on an official record of any court or tribunal at which the accused had opportunity to be heard, the commission may issue an order citing the accused to show cause why the commission should not take such action as the commission shall indicate in the order. In such cases the burden of proof shall be on the party directed to show cause.

E. The commission shall not be bound by the rules of evidence applicable in a court and it may admit and give probative effect to any evidence which possesses such probative value as would entitle it to be accepted by reasonably prudent men in the conduct of their affairs; provided, however, that the commission shall give effect to the rules of privilege recognized by law and may exclude incompetent, irrelevant, immaterial or duly repetitious evidence and may make rulings to protect witnesses from undue harassment or oppression.

F. All evidence, including records and documents, in the possession of the commission of which it desires to avail itself, shall be offered and made a part of the record in the case, and no other factual information or evidence shall be considered in the determination of the case. Documentary evidence may be received in the form of copies or excerpts or by incorporation by reference.

G. Every party shall have the right of cross-examination of witnesses who testify, and shall have the right to submit rebuttal evidence.

H. In hearings concerning the denial of an application for a license, the burden of going forward with the evidence shall be on the applicant; otherwise, it shall be upon the commission. Every party shall have the right of cross-examination of witnesses who testify, and shall have the right to submit rebuttal evidence.

I. Five members of the commission shall constitute a quorum for any meeting or hearing, and a majority thereof may act on any matter within the jurisdiction of the commission.

**AUTHORITY NOTE:** Adopted in accordance with R.S. 32:1256.

**HISTORICAL NOTE:** Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975.

### §303. Compulsory Attendance of Witnesses

A. Any party to a hearing desiring the attendance of witnesses upon his behalf shall have the right to seek compulsory attendance of such witnesses, provided said party shall file a list of the names and addresses of such witnesses with the executive secretary of the commission at least five days before the date set for the hearing. The commission shall take such testimony as may, in its opinion, be necessary to the proper resolution of the matter before it.

**AUTHORITY NOTE:** Adopted in accordance with R.S. 32:1253.

**HISTORICAL NOTE:** Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975.

### §305. Notification of Hearing Decision

A. The executive secretary shall notify the applicant or licensee affected by the hearing of the decision of the commission, by written notice by registered mail, addressed to the applicant or licensee at the last known residence or business address of such applicant or licensee.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1256.

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975.

### **§307. Appeal**

A. Promptly upon receipt of any petition to review a decision of the commission filed by any party in any court, the executive secretary shall furnish a copy of such petition to each member of the commission and to the commission counsel and shall file all pertinent documents with the clerk of the court wherein such relief is sought.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1256.

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975.

## **Chapter 5. Salesmen; Dealers; Distributors**

### **§501. Licenses for Salesmen**

A. The requirement of licenses for salesmen, as set forth in the Louisiana Motor Vehicle Commission Law, includes any sales manager whose duties include, in whole or in part, the selling or participating in the selling of new motor vehicles, unless such sales manager be, in whole or in part, an owner of the business, participating in the profits and losses.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1254 and R.S. 32:1252.

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975.

### **§503. Unlicensed Salesmen**

A. It is illegal for licensees to employ unlicensed salesmen.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1254 and R.S. 32:1252.

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975.

### **§505. Licensee Employing Salesmen**

A. All licensees employing salesmen must, before allowing them to act as such, see to it that they have obtained a proper license under the Louisiana Motor Vehicle Commission Law.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1256.

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975.

### **§507. Pocket License Card**

A. Every motor vehicle salesman, factory representative, when licensed, will be licensed to represent his employer and must keep his pocket license card on his person, and his employer must retain possession of the license certificate until termination of such employment. Said motor vehicle salesman, factory representative, or distributor representative may not represent another employer without first being issued a license to represent the said particular employer.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1256.

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975.

### **§509. Termination of Salesman; Return of Pocket Card and License**

A. All licensees having salesmen in their employ must, upon termination of such employment, report same to the Louisiana Motor Vehicle Commission and see to it that said salesman's pocket card and license certificate are immediately returned to the Louisiana Motor Vehicle Commission.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1256.

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975.

### **§511. Unlicensed Salesmen; Prohibition against Use of**

A. Motor vehicle dealers shall not employ unlicensed salesmen to sell new motor vehicles, and shall not employ or utilize the services of used motor vehicle lots or dealers or other unlicensed "bird dogs" in connection with the sale of new motor vehicles.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1254 and R.S. 32:1256.

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975.

### **§513. Display of License**

A. Every motor vehicle dealer or distributor must post his license certificate as such in a prominent place in his place of business, stated in such license certificate, and dealers and distributors having more than one place of business in Louisiana must obtain a separate license for each place of business and post in each place of business in a prominent place the license for such place of business.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1254.

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975.

**§515. License Prior to Shipment**

A. A manufacturer, distributor, factory representative, or distributor representative shall not ship or sell motor vehicles to a motor vehicle dealer until the motor vehicle dealer shall have been licensed by the Louisiana Motor Vehicle Commission.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1254.

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975.

**Chapter 7. Advertising**

Editor's Note: Chapter 7 has been renumbered to include §§701-711 which were inadvertently omitted from the Motor Vehicle Commission's rules and regulations originally published October 11, 1960.

**§701. Bait Advertisement**

A. Licensees shall not use unfair, misleading or bait advertisement.

B. Bait advertising is an alluring but insincere offer to sell a product or service which the advertiser in truth does not intend or want to sell. Its purpose is to switch consumers from buying the advertised merchandise, in order to sell something else, usually at a higher price or on a basis more advantageous to the advertiser. The primary aim of a bait advertisement is to obtain leads as to persons interested in buying merchandise of the type so advertised.

C. No advertisement containing an offer to sell a product shall be published when the offer is not a bona fide effort to sell the advertised product.

D. No statement or illustration shall be used in any advertisement which creates a false impression of the make, value, model, or color of the product offered, or which may otherwise misrepresent the product in such a manner that later, on disclosure of the true facts, the purchaser may be switched from the advertised product to another. Motor vehicles advertised for sale shall be in the possession of the dealer as advertised at the address given. They shall be in condition to demonstrate and willingly shown and sold at advertised prices and terms. If sold, the advertiser shall, upon request be willing to show sales records of advertised motor vehicles which allegedly have been sold.

E. Even though the true facts are subsequently made known to the buyer, the law is violated if the first contact or interview is secured by deception. No act or practice shall be engaged in by an advertiser to discourage the purchase of the advertised merchandise as part of a bait scheme to sell other merchandise.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1254.

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974.

**§703. Acts or Practices to Determine If Advertisement is a Bona Fide Offer**

A. Among acts or practices which will be considered in determining if an advertisement is a bona fide offer to sell the advertised product are:

1. the refusal to show, demonstrate, or sell the product offered in accordance with the terms of the offer;

2. the disparagement by acts or words of the advertised product or the disparagement of the guarantee, credit terms, availability of service, repairs or parts, or in any other respect, in connection with it;

3. the failure to have available to all outlets listed in the advertisement a sufficient quantity of the advertised product to meet reasonably anticipated demands, unless the advertisement clearly and adequately discloses that supply is limited and/or the merchandise is available only at designated outlets;

4. the refusal to take orders for the advertised merchandise to be delivered within a reasonable period of time;

5. the showing or demonstrating of a product which is defective, unusable or impractical for the purposes represented or implied in the advertisement;

6. use of a sales plan or method of compensation for salesmen or penalizing salesmen, designed to prevent or discourage them from selling the advertised product.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1254.

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974.

**§705. Unselling**

A. No practice shall be pursued by an advertiser, in the event of sale of the advertised product, of "unselling" with the intent and purpose of selling other merchandise instead.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1254.

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974.

**§707. Good Faith Sales**

A. Among acts or practices which will be considered in determining if the initial sale was in good faith, and not a stratagem to sell other merchandise are:

1. accepting a deposit for the advertised product, then switching the purchaser to a higher-priced product;

2. failure to make delivery of the advertised product within a reasonable time or to make a refund;

3. disparagement by acts or words of the advertised products, or the disparagement of the guarantee, credit terms, availability of service, repairs, or in any other respect, in connection with it;

4. the delivery of the advertised product which is defective, unusable or impractical of the purpose represented or implied in the advertisement.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1254.

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974.

#### **§709. Bait and Switch Scheme**

A. Sales of the advertised merchandise do not preclude the existence of a bait and switch scheme. It has been determined that, on occasions, this is a mere incidental by-product of the fundamental plan and it is intended to provide an aura of legitimacy to the over-all operation.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1254.

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974.

#### **§711. All Charges Included**

A. Every price advertisement shall include all charges except local and/or state sales tax, license and insurance.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1254.

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975, amended LR 9:542 (August 1983).

#### **§713. Required Information**

A. Full and complete information shall be shown in describing the new motor vehicle so advertised and shall include:

1. make and year;
2. series (manufacturer's name plate);
3. number of doors;
4. equipment included in advertised price. Any illustration used in any advertising media, including television, must be that of the new motor vehicle advertised as outlined above;
5. any advertised statements, illustrations and offers of motor vehicles as to year, make, model, type, condition, equipment, price, trade-in allowance, terms, etc., shall be clearly set forth and based upon facts.

B. The use of stock numbers will not preempt the requirements of full disclosures as stated above, except that the listing of equipment is not required when a manufacturer's list price, if an automobile, or manufacturers suggested retail price, if a truck, is also advertised.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1254.

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975, amended LR 9:542 (August 1983).

#### **§715. Credit Sales**

A. Credit sales plans advertised must include:

1. the requirements contained in §703 with regard to description and illustration of the advertised product shall also be adhered to in credit sales plan advertisements;
2. the amount of any required downpayment;
3. the amount to be financed;
4. the number, amount, or period of payments scheduled to repay the debt;
5. the finance charge expressed as an annual percentage rate.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1254.

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975, amended LR 9:542 (August 1983).

#### **§717. Deferred Payments**

A. No advertisement shall offer to defer the first payment on a credit sale beyond 45 days unless such advertisement states with equal prominence the method and/or terms of extending the first payment.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1254.

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975, amended LR 9:542 (August 1983).

#### **§719. Lease Advertising**

A. Lease advertising regulation is required because it represents an alternative to buying on credit. The following disclosures are required in lease advertising:

1. the requirements contained in §703 with regard to description and illustration of the advertised product shall also be adhered to in lease advertisements;
2. that the transaction advertised is a lease:
  - a. the disclosure that the transaction is a lease must be equal to the featured size and prominence as the amount of payment and the downpayment (or lack thereof) disclosure;
3. the total amount of any payment such as security deposit or capitalized cost reduction required at the consummation of the lease, or that no such payments are required;
4. the number, amount, periods of scheduled payments, residual value, if any;
5. a statement of whether or not the lessee has the option to purchase the leased property and at what price and time;

6. a statement of the amount or method of determining the amount of liabilities the lease imposes upon the lessee shall be liable for the difference, if any, between the estimated value of the lease property and realized value at the end of the lease term, if the lessee has such liability.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1254.

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975, amended LR 9:543 (August 1983), LR 11:518 (May 1985).

#### **§721. Statement of Costs—Invoice**

A. No advertisement shall be run which uses the term or terms "invoice," "cost," "percent over/under cost, invoice or profit," "\$\$\$ over/under cost, invoice or profit."

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1254.

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975, amended LR 9:543 (August 1983).

#### **§723. Free Merchandise**

A. It is unfair practice for a dealer to use the word "free" or any other word or words of similar import, in any advertising, if the cost, or any part of the cost of the "free" equipment, accessory, or other merchandise, is included in the price of the motor vehicle or if the motor vehicle can be purchased for a lesser price without such equipment, accessory, or merchandise.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1254.

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975, amended LR 9:543 (August 1983).

#### **§725. Cash Offers**

A. Any cash offer funded by the dealer shall not be used and is prohibited.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1254.

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975, amended LR 9:543 (August 1983).

#### **§727. Underselling Claims and Volume Dealing**

A. Unsupported underselling claims shall not be used. Claims such as "First," "Largest," "Biggest," must be qualified as to validity (using valid source data) and the time period of claim.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1254.

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975, amended LR 9:543 (August 1983).

#### **§729. Savings Claims—Discounts**

A. Specific claims or discount offers shall not be used in connection with any motor vehicle other than new or a demonstrator and then only to show the difference between the dealer's own current selling price and the bona fide manufacturer's suggested list price, if an automobile, or manufacturer's suggested retail price, if a truck. Full explanation must be given, as for example, "Save or discount \$\_\_\_\_\_ from manufacturer's list/retail price."

B. Such statements as "Up To," "As Much As," "From"- "To," etc., shall not be used in connection with savings claims.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1254.

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975, amended LR 1:249 (May 1975), LR 9:543 (August 1983).

#### **§731. Manufacturer and Distributor Rebates**

A. It shall be unlawful for any manufacturer or distributor, either directly or indirectly, to advertise, publicize or represent to the public by any means or in any medium, any offer to purchasers of vehicles sold by the manufacturer or distributor, of a rebate, refund, discount or other financial inducement or incentive, which is either payable to or for the benefit of the purchaser of the vehicle or which reduces the amount to be paid by the purchaser for the vehicle, whether such amount is the vehicle purchase price or any other cost accruing to the purchaser in connection with the purchase of the vehicle, where any portion of such rebate, refund, discount or other financial incentive or inducement is paid by, financed by, or in any manner contributed to by the dealer selling the vehicle, unless such advertising or publicizing discloses clearly and discernibly the following.

1. The dealer's contribution may affect final negotiated price of the vehicle.

2. A manufacturer or distributor rebate which includes the dealer portion or contribution shall not be regarded as a cash offer funded by the dealer for purposes of §715.

B. Dealers Advertising of Manufacturer and Distributor Rebates. It shall be unlawful for any dealer, either directly or indirectly, to advertise, publicize or represent to the public by any means or in any medium, any offer to purchasers of vehicles sold by the dealer, of a manufacturer's or distributor's rebate, refund, discount or other financial inducement or incentive of the type described in §721, unless such advertising or publicizing clearly and discernibly discloses the following:

"The dealer's contribution may affect the final negotiated price of the vehicle."

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1254.

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975, amended LR 1:249 (May 1975), LR 9:543 (August 1983).



### **§733. Untrue and Ambiguous Statements Shall Not be Used**

A. Statements such as "Write your own deal," "Name your own price," "Name your own monthly payment," "Appraise your own motor vehicle," and phrases of similar import are obviously untrue and shall not be used.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1254.

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975, amended LR 9:543 (August 1983).

### **§735. Current Used**

A. Used motor vehicles shall not be advertised so as to create the impression they are new.

B. Motor vehicles of the current and preceding year, which are other than new, must be clearly identified and qualified as "Used," "Executive Driven," "Demonstrator," "Demo," etc., as may be the case.

C. When new motor vehicles and motor vehicles of the current and preceding model year which are other than new are offered in the same advertisement, such offers shall be clearly separated by description, layout and art treatment.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1254.

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975, amended LR 9:543 (August 1983).

### **§737. Advertising Format and Disclosure Requirements**

A. Qualifying phrases and amounts shall be clearly legible and associated with the featured amount.

B. The finance charge (expressed as an annual percentage rate) and other required disclosures must be presented at least in the video portion of a TV commercial and in a discernible manner.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1254.

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975, amended LR 9:543 (August 1983).

### **§739. Gas Mileage Claims**

A. Advertising which includes a gas mileage claim, i.e., a certain miles-per-gallon claim must be properly qualified as to the source of information and authenticity of the claim. Such advertisement should include, but not be limited to, a clear statement as to whether the claimed miles-per-gallon can be expected to be attained under normal or usual driving conditions.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1254.

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975, amended LR 9:543 (August 1983).

### **§741. Auto Shows**

A. Auto shows must be submitted for approval by the Louisiana Motor Vehicle Commission and comply with the following terms and conditions.

1. Any request for approval of an auto show must be submitted, in writing, not less than 45 days prior to the anticipated date of the proposed auto show.

2. All local new car dealers shall be offered an opportunity to participate in such auto shows unless sponsored by a particular trade association to promote its members products.

3. Such auto shows must comply with all rules and regulations of the Louisiana Motor Vehicle Commission and the Laws of the State of Louisiana.

4. Any other term or condition in which the Louisiana Motor Vehicle Commission deems necessary.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1254.

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975, amended LR 9:543 (August 1983).

## **Chapter 9. Prohibitions**

### **§901. Prohibition against Unfair Acts**

A. Licensees shall not engage in any improper or unfair acts or practices harmful to the industry or otherwise detrimental to the public welfare.

B. A licensee holding a Louisiana Motor Vehicle Retail License for a particular make or brand of motor vehicle shall not display, offer for sale, or sell a new and unused motor vehicle of another make or brand that he does not hold a company franchise for and is not properly equipped for servicing and licensed to sell. Any licensed franchise dealer holding a license under the Louisiana Motor Vehicle Commission shall, if found guilty of the above practices, be subject to the withholding, revocation or suspension of his license upon proper hearing, as provided in these rules and regulations.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1254.

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975.

## Chapter 11. Amending Rules

### §1101. Amending Rules

A. These rules and regulations may be amended, modified and supplemented from time to time as the commission may deem necessary and advisable.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1253.

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975.

## Chapter 13. Franchised Dealer Requirements

### §1301. Display Showroom Requirement

A. Franchised new motor vehicle dealers must have an enclosed new motor vehicle display showroom of not less than 400 square feet in area, and must maintain an adequate stock of replacement parts, an adequate shop area and adequate mechanical facilities for the proper servicing of the motor vehicles which he sells.

B. Provided that exclusive heavy-duty truck dealers are not required to maintain a display showroom as required by this Section.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1253.

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975.

### §1303. Warranty Work

A. Automobile manufacturers licensed by this commission to do business in Louisiana shall be required to pay their franchised dealers doing warranty work under the respective manufacturers' published warranty a labor rate equal to, but not to exceed the labor rate in effect in the particular dealership for such work when done for the public generally, i.e., non-warranty work.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1254.

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the Office of the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975.

## Chapter 15. Motor Vehicle Repairs and Services

### §1501. Definitions

A. For the purpose of Chapter 15 only, the following definitions shall apply.

*Anticipated Repairs, Services, Labor and Parts*—those repairs, services, labor and parts, which based on the judgment, training and experience of the supplier will be foreseeably required in order to achieve the results desired by the consumer who requests repairs and services.

*Necessary Repairs, Services, Parts and Labor*—those repairs, services, parts and labor which, in the judgment of the supplier, are required to fully remedy or prevent a defect or malfunction.

*Original Estimate*—an approximation of the cost of anticipated repairs and services to be performed by a supplier which does not exceed the subsequent actual cost of such anticipated repairs and services by more than 25 percent.

*Supplier*—any new or unused motor vehicle dealer who furnishes or supplies motor vehicle repairs and services, either directly or through the employment of other mechanics or repairmen, provided however, that motor vehicle repairs and services performed on motor vehicles over 20,000 pounds, GVWR are excluded for the purposes of Chapter 15.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1254.

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975.

### §1503. Unfair Acts and Practices

A. It shall be an unfair act or practice, in connection with a transaction involving motor vehicle repairs and services for a supplier of such repairs and services to do any of the following:

1. if specifically requested by consumer, when the anticipated repairs exceed \$125, then to fail to provide in advance, to a consumer seeking repairs and services, a written original estimate of the cost to the consumer of all anticipated repairs and service, including any charge for disassembly or reassembly of any parts disassembled for inspection and any service charge of any type to be imposed:

a. such written estimate shall include, in separate columns an itemized list of each anticipated repair to be performed, the anticipated labor charge involved for each repair, and the cost to the consumer of anticipated parts to be replaced;

b. the requirement of §1503 shall be satisfied by the statement of a flat rate price if such repairs and services are customarily done and billed on a flat rate basis;

c. notwithstanding anything herein to the contrary, if disassembly for inspection is necessary to determine the extent of anticipated repairs before an original estimate can be given, then any charge for such disassembly and/or reassembly shall be disclosed in advance: provided further that the amount of the charge referred to herein shall not be conditioned upon the consumer consenting to performance of the inspection by the supplier who performs said inspection;

d. a fair charge may be made by the supplier for the service of preparing this written estimate; said charge not to exceed \$5 for an estimate up to \$200 and not to exceed \$10 for estimate in excess of \$200 if same is made on the premises of the supplier, and notice of this charge must be posted as designated in §1503.A.3;

2. if an original written estimate is requested by a consumer, then, to fail to obtain oral or written authorization from the consumer for subsequently arising unanticipated, but necessary, repairs, services, parts and labor, when those repairs, services, parts and labor will exceed the cost estimated in the original estimate, or itemized part thereof, by more than 25 percent excluding tax:

a. when unanticipated, but necessary, repairs, services, parts and labor are needed and authorization to perform same is obtained from the consumer, the cost of these additional repairs, services, parts and labor shall be separately estimated in writing and a copy of this separate estimate made available to the consumer;

3. to fail to post in a conspicuous place in the service reception area a sign with a white background and having black letters at least one inch in weight which reads as follows:

a. Notice to Our Customers

You may request a written estimate, in advance, before authorizing us to repair your vehicle if it is anticipated that such repairs might exceed \$125. Our charge for such estimate is \$\_\_ for any job up to \$200 and \$\_\_ for jobs in excess of \$200;

b. provided that the supplier makes no charge for a written estimate then he may delete the last sentence of the above notice and insert in its place a statement that no charge is made for the estimate;

c. provided further that the supplier may at his option, change the \$125 requirement to a lesser amount;

4. to fail to reassemble any parts disassembled for inspection unless the consumer is so advised prior to acceptance for inspection by the supplier;

5. to willfully represent that repairs are necessary when such is not the fact;

6. to willfully represent that repairs have been made when such is not the fact;

7. to willfully represent that the parts being inspected or diagnosed are in a dangerous condition or that the consumer's continued use of them may be harmful to him when such is not the fact;

8. to willfully understate or misstate the estimated cost of repairs, services, parts and labor in excess of 25 percent for the purpose of inducing a consumer to enter into a transaction for repairs and services;

9. to fail to disclose the intended use of used parts in conjunction with repairs and services, or to install used parts without the knowledge and consent of the consumer;

10.a. to fail to provide the consumer with an itemized bill indicating repairs and services actually performed, parts actually replaced, or materials actually used, the total labor charge, and the name of the mechanic, repairman, or supplier who performed the work;

b. the requirements of §1503.A.10.a shall not be satisfied by a bill reflecting a flat rate price if such repairs and services are customarily done and billed on a flat rate basis.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1254.

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975.

## §1505. Replaced Parts

A. Upon request of the consumer at the time the repair order is written, the supplier shall then tender to such consumer any replaced parts at the time the job is delivered, unless the parts are to be rebuilt or sold by the supplier, or if the part is a warranty part that must be returned to the manufacturer, and such intended reuse or return is made known to the consumer at the time of the request.

AUTHORITY NOTE: Adopted in accordance with R.S. 32:1254.

HISTORICAL NOTE: Adopted by the Department of Commerce, Motor Vehicle Commission, October 11, 1960, filed with the State Register August 14, 1974, repromulgated April 10, 1975 to be effective June 9, 1975.

## Chapter 17. Motor Vehicle Lessor

### §1701. Qualifications and Eligibility

A. The commission, in determining the qualifications and eligibility of an applicant for a motor vehicle lessor and a lessor used car facility, will base its determinations upon the following factors.

1. The ability of the applicant to establish an adequate place of business, properly zoned in the municipality, provide a suitable office, have a permanently affixed sign, in front of the establishment which denotes that vehicles are offered for lease or sale at the location to which the sign is affixed. Applicant must have a useable telephone at the place of business, the number of which should be listed on the application for license and in a local directory accessible to the public. The commission must be notified of any change in the telephone number.

2. All applicants are required to furnish and cause to be kept in force the minimum required liability insurance coverage on all vehicles offered for sale, rental, lease, or used in any other capacity in demonstrating or utilizing the street and roadways in accordance with the financial responsibility laws of this state.

3. Before any motor vehicle lessor or lessor used care facility license is issued to an applicant under the provisions of the Louisiana Motor Vehicle Commission Act, R.S. 32:1251 et seq., a good and sufficient surety bond, executed by the applicant as principal and by a surety company qualified to do business in Louisiana as surety in the sum of \$10,000, shall be delivered to the commission. Such bond shall be in a form to be approved by the commission and shall be conditioned that the applicant shall comply with the conditions of any written contract made by such applicant in connection with the lease, rental, sale or exchange of any motor vehicle and shall not violate any of the provisions of the Louisiana Motor Vehicle Commission Act, R.S. 31:1251 et seq., or any other law of Louisiana in the conduct of the

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business for which he is licensed. Such bond shall be made payable to the Secretary of the Department of Public Safety or to his successor in office, for the use, benefit, and indemnity of any persons who shall suffer any loss as a result of any violation of the conditions hereinabove contained. Such bond shall be delivered to the commission at the beginning of each license period; however, the aggregate liability of the surety in any one-year shall in no event exceed the sum of such bond. The bond required by this Section shall be maintained throughout the period of licensure. Should the bond be cancelled for any reason, the license shall be revoked as of the date of cancellation unless a new bond is furnished prior to such date.

4. The applicant's business integrity, based upon the applicant's experience in the same or similar businesses, his business history, and whether such applicant will devote full or part time to the business.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1254 and R.S. 32:1253.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Motor Vehicle Commission, LR 11:518 (May 1985).

### **§1703. Definitions**

*Established Place of Business*—a permanently enclosed building or structure either owned in fee, leased or rented, which meets local zoning or the municipal requirements, and regularly occupied by a person, firm or corporation, easily accessible to the public at which a regular business of leasing or rental of motor vehicles or selling used motor vehicles will be carried on in good faith; and, at which place of business shall be kept and maintained the books, records, and files necessary to conduct the business; and, shall not mean residences, tents, temporary stands, lots, or any temporary quarters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1254 and R.S. 32:1253.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Motor Vehicle Commission, LR 11:518 (May 1985).

**Title 46**  
**PROFESSIONAL AND OCCUPATIONAL STANDARDS**  
**Part V. Automotive Industry**  
**Subpart 2. Recreational and Used Motor Vehicle Commission**

**Chapter 27. The Used Motor Vehicle  
and Parts Commission**

**§2701. Meetings of the Commission**

A. The commission shall meet at its office in Baton Rouge, Louisiana on the third Tuesday in each month to transact such business as may properly come before it. The regular meeting will convene at the hour of 9 a.m. and shall continue at the pleasure of those present. Any change of monthly meetings will be in accordance with the Open Meeting Law R.S. 42:5.

B. Special Meetings. Special meetings shall be held upon call of the chairman by notice given to the members of the commission at least 48 hours prior to the time the meeting is to be held; such notice to be given by telephone, telegraph or letter.

C. A public comment period shall be held at or near the beginning of each board meeting. Persons desiring to present public comments shall notify the board chairman no later than 48 hours prior to the date of the regular meeting and 72 hours prior to the date of a special meeting. All written requests to have an item or items placed on the agenda must indicate, in detail, what items they wish to discuss. Public discussions are limited only to items on the agenda. There will be a maximum of 30 minutes for all public comments to be heard and each person will be limited to three minutes. Additional time can be allowed by the chairman as he deems reasonable. Each person making public comments shall identify himself and the group, organization or company he represents, if any.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:772.E and R.S. 42:5.D.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:258 (April 1989), LR 15:1058 (December 1989), LR 18:1116 (October 1992), LR 24:1682 (September 1998), LR 25:1792 (October 1999), amended by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 28:2351 (November 2002).

**§2703. Quorum of the Commission**

A. Seven members of the commission shall constitute a quorum for the transaction of official business. Fewer than a quorum may adjourn the meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:772.E.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:258 (April 1989), LR 24:1682 (September 1998).

**§2705. Executive Director**

A. The executive director of the Louisiana Used Motor Vehicle and Parts Commission shall be in charge of the commission's office and shall conduct and direct the activities thereof in the manner as directed by the commission. The employees of the commission shall report to the executive director.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:772.D(1)(2).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985).

**§2707. Correspondence with the Commission**

A. All correspondence by letter with the commission shall be addressed to the attention of the executive director.

B. Louisiana Used Motor Vehicle and Parts Commission forms, applications and dealer aids are recognized as the commission official forms for licensing and communication.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:772.E.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985).

**§2709. Official Seal**

A. The official seal of the Louisiana Used Motor Vehicle and Parts Commission shall be as follows: The outline of the State of Louisiana with a small star denoting the approximate location of Baton Rouge, which name appears to the left of the star. It shall be bordered by the inscription, Louisiana Used Motor Vehicle and Parts Commission.

B. The executive director shall be the custodian of the official seal and shall affix the imprint or the facsimile thereof to all license certificates issued by the Louisiana Used Motor Vehicle and Parts Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:772.D(4).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985).

## Chapter 29. Used Motor Vehicle Dealer

### §2901. Dealers to be Licensed

A. Dealers in used motor vehicles and other types used vehicles subject to Certificate of Title Law under Title 32 and/or Vehicle Registration License Tax under Title 47.

B. Dealers in new and used motor homes, new and used semi-trailers, new and used motorcycles, new and used all-terrain vehicles, new and used recreational trailers, new and used boat trailers, and new and used travel trailers, new and used boats, new and used boat motors, daily rentals not of current year or immediate prior year models that have been titled previously to an alternate purchaser, manufacturers and distributors and other types subject to certificate of title law and Title 32 and/or Vehicle Registration Tax Number under Title 47. All new and unused vehicle dealers and other dealers licensed by the Louisiana Motor Vehicle Commission are excluded from licensing by the Louisiana Used Motor Vehicle and Parts Commission.

C. Dealers in used parts or used accessories of motor vehicles.

D. Automotive dismantlers and parts recyclers, motor vehicle crushers, motor vehicle scrap dealers, motor vehicle shredders.

E. Motor vehicle auctions and salvage pools are considered used motor vehicle dealers and must comply with licensing regulations contained herein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:773(B).

HISTORICAL NOTE: Promulgated by Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 24:1682 (September 1998), amended by the Office of the Governor, Used Motor Vehicle and Parts Commission LR 30:436 (March 2004), repromulgated LR 30:794 (April 2004), LR 30:1477 (July 2004).

### §2903. License for Dealer

A. Dealer license will be issued in the legal name of the individual, proprietorship, partnership or corporation as identified on the application for dealer license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:772.E.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:258 (April 1989).

### §2905. Qualifications and Eligibility for Licensure

A. The commission, in determining the qualifications and eligibility of an applicant for a dealer's license, will base its determinations upon the following factors.

1. The ability of the applicant to establish an adequate place of business properly zoned in the municipality, provide a suitable office, have a permanently affixed sign, clearly visible from the street or roadway at a minimum of 16

square feet and subject to local zoning laws, in front of the establishment which denotes that vehicles are offered for sale at the location to which the sign is affixed. Existing signs prior to adoption of this rule will not have to meet the new requirements. If two or more dealers share a location, each dealer must display his own sign. Applicant must have an installed telephone listed in the business name at the place of business, the number of which should be listed on the application for license. Each dealer must have their own listed business telephone. No cellular telephones will be allowed in lieu of an installed business telephone. The commission must be notified of any change in the telephone number.

2. All dealers are required to keep in force a garage liability insurance policy on all vehicles offered for sale or used in any other capacity in demonstrating or utilizing the streets and roadways in accordance with the financial responsibility laws of the state. For those dealers who, in addition to selling vehicles, conduct the business of daily vehicle rentals, a separate renter's policy must be in effect.

3. The applicant's business integrity, based upon the applicant's experience in the same or similar businesses, his business history, and whether such applicant will devote full or part time to the business.

B. A dealer's license shall consist of a signed certificate bearing the official seal of the commission and the name and address of the dealership and assigned a dealer number, which shall be posted in a conspicuous place in the dealer's place or places of business. The dealer's license number will be prefixed with UD, followed by an electronic number.

C. The valid dealer's license permits the dealer to transfer and assign titles, purchase and sell used motor vehicles without paying Louisiana general sales tax.

D. A dealer who has multiple locations will be allowed from his salesman's license to sell at all locations owned by him.

E. Dealers in new and used motor homes, new and used boats, new and used boat motors, new and used motorcycles, new and used all-terrain vehicles, new and used semi-trailers, new and used recreational trailers, new and used boat trailers, and new and used travel trailers, likewise must meet the above qualifications to be eligible and all these types license numbers will be prefixed by NM, followed by an electronic number. Semi-trailers are described in the title law as every single vehicle motive power designed for carrying property and passengers and so designed in conjunction and used with a motor vehicle that some part of its own weight and that of its own load rests or is carried by another vehicle and having one or more load carrying axles. This includes, of course, recreational trailers, boat trailers and travel trailers, but excludes mobile homes. One license shall be due for new and used operators at the same location.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:772(F)(2).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by the Department of

Economic Development, Used Motor Vehicle and Parts Commission LR 15:258 (April 1989), LR 15:375 (May 1989), LR 24:1682 (September 1998), LR 25:245 (February 1999), amended by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 30:436 (March 2004), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 30:2480 (November 2004).

#### **§2907. Established Place of Business for the Used Motor Vehicle Dealer**

A. An established place of business shall mean a permanently enclosed building or structure either owned in fee, leased or rented, which meets local zoning or the municipal requirements, and regularly occupied by a person, firm or corporation, easily accessible to the public at which a regular business of selling used motor vehicles will be carried on in good faith; and, at which place of business shall be kept and maintained the books, records, and files necessary to conduct the business; and, shall not mean tents, temporary stands, lots, or other temporary quarters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:772.F(2).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1063 (November 1985).

### **Chapter 31. License for Salesman**

#### **§3101. Qualifications and Eligibility for Licensure**

A. The commission, in determining the qualifications and eligibility of an applicant for a salesman license, will base its determinations upon the following factors.

1. The applicant's business integrity, based upon the applicant's experience in the same or similar businesses, his business history, and whether such applicant will devote full or part time to the business.

2. A license for a salesman will not be issued, renewed or endorsed until the employing dealer is licensed and has certified that the applicant for said license is in his employ and applicant is listed on the insurance statement and covered under the dealer's liability insurance policy. It is not intended that the dealer pay for licenses for its salesmen. However, for convenience, the dealer may do so on a reimbursable basis or any other plan satisfactory to its organization. All salesmen's licenses will be sent to the dealer for distribution to the respective applicants, and the dealer will determine that all its personnel required to obtain licenses have done so.

B. A salesman's license shall consist of an identification card bearing the name, address, name of employer, date, signature of the executive director, salesman's license number prefixed with SM, followed by an electronic number. The card shall be carried upon his person at all times when acting as a salesman at license location.

C. Upon termination of employment, the salesman license will be returned by the dealer to the office of the Used Motor Vehicle and Parts Commission within 10 days.

D. A salesman may not hold more than one salesman's license at any one time or be employed by or sell for, any dealer other than the dealer and at the address designated on the salesman's license, with the exception that the licensed dealer has more than one location. The licensed dealer and licensed salesman may sell on each location properly licensed as additional locations, provided the additional locations are in the same name as the principal location.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:774.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1063 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:258 (April 1989), LR 25:245 (February 1999), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 30:2481 (November 2004).

### **Chapter 33. Automotive Dismantler and Recycler**

#### **§3301. License for Automotive Dismantler**

A. Automotive dismantler license will be issued in the legal name of the individual, proprietorship, partnership or corporation as identified on the application for dismantler license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:772.E.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1063 (November 1985).

#### **§3303. Qualifications and Eligibility for Licensure**

A. The commission, in determining the qualifications and eligibility of an applicant for an automotive dismantler's license, will base its determinations upon the following factors.

1. The ability of the applicant to establish an adequate place of business, properly zoned in the municipality, provide a suitable office, have a permanently affixed sign, clearly visible from the street or roadway at a minimum of 16 square feet and subject to local zoning laws, in front of the establishment. Existing signs prior to adoption of this rule will not have to meet the new requirements. Applicant must have an installed telephone listed in the business name at the place of business, the number of which should be listed on the application for license. No cellular telephones will be allowed in lieu of an installed business telephone. The commission must be notified of any change in the telephone number.

2. The applicant's business integrity, based upon the applicant's experience in the same or similar business, his business history, and whether such applicant will devote full or part time to the business.

B. An automotive dismantler's license shall consist of a signed certificate bearing the official seal of the commission and the name and address of the business and assigned a dismantler number, which shall be posted in a conspicuous place in the dismantler's place or places of business. The automotive dismantler's license number will be prefixed with AD, followed by an electronic number.

C. Every automotive dismantler and recycler issued an automotive dismantler's license and number will be permitted to purchase and sell salvage vehicles and transfer motor vehicle titles for the purpose of dismantling and selling the parts thereof to include the salvaged vehicle with title.

D. An automotive dismantler and parts recycler may offer a rebuilt wrecked, abandoned or repairable motor vehicle at wholesale only. If such vehicle is offered for sale at retail, the dismantler will be operating as a used motor vehicle dealer and is subject to licensing requirements and used motor vehicle dealer rules and regulations thereof. However, an automotive dismantler and parts recycler, duly licensed by the commission, shall have the authority to transfer the certificate of title as a dealer under the Louisiana Certificate of Title Law, (i.e., transfer to another dealer without payment of tax). In order to sell a vehicle at retail, an automotive dismantler and parts recycler must be licensed hereunder as a used motor vehicle dealer providing a good and sufficient bond, executed by the applicant as principal by a surety company qualified to do business as surety in the sum of \$20,000.00.

E. At least one salesman's license shall be issued for each business. License fees charged and received by the commission shall be the same as for all other salesmen licensed by the commission as is described in R.S. 32:754.

F. No person, firm or corporation may advertise, sell or display for sale used parts without first obtaining a used parts dealer's license to do business in this state. All these types of license numbers will be prefixed by UP, followed by an electronic number.

1. Used parts are broadly described as those parts necessary for operation of a vehicle and have been removed from a vehicle for resale. They include, but are not limited to, the following: motors, wheels, generators, alternators, water pumps, glass, radiators, spark plugs, fuel tanks, etc.

2. License fees charged and received by the commission for licenses issued on dealers above shall be the same as for all other dealers licensed by this agency as is described in R.S. 32:754.

3. At least one salesman's license shall be issued for each business. License fee charged and received by the commission shall be the same as for all other salesmen licensed by the commission as is described in R.S. 32:754.

4. A surety bond will not be required for dealers whose principal business is selling used parts.

G. An out of state parts dealer may open a parts business in this state. License for an out of state parts dealer to open a used parts business is \$500 per location.

H. Dealers whose only business is selling rebuilt or remanufactured parts, used batteries, tires and/or wheel covers are not included herein. Service stations are also specifically excluded from the above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:752, 32:753, 32:754, 32:775 and 32:756, 32:772(E), and R.S. 32:773(A)(3).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1063 (November 1985), amended by Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 20:535 (May 1994), repromulgated LR 20:645 (June 1994), LR 24:1683 (September 1998), amended LR 25:245 (February 1999), amended by Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 30:2481 (November 2004).

### **§3305. Place of Business of an Automotive Dismantler and Recycler**

A. Place of business means the place owned, leased or rented, which meets local zoning or the municipal requirements, and regularly occupied by a person, firm or corporation, licensed under the provisions of this act for the principal purpose of engaging in the business of an automotive dismantler and parts recycler, where the products for sale are displayed and offered for sale, and where the books and records required for the conduct of the business are maintained and kept.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:772.E(2).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1064 (November 1985).

## **Chapter 35. Buyer Identification Card**

### **§3501. Buyer Identification Card Required**

A. Sales at a salvage pool, salvage disposal sale, or through an insurance company shall be opened only to persons possessing a buyer's identification card to buy at a salvage pool, salvage disposal sale, or through an insurance company.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:762.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1064 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:259 (April 1989), LR 15:1058 (December 1989).

### **§3503. Qualifications and Eligibility for Buyer Identification Card**

A. The commission, in determining the qualifications and eligibility of an applicant for a buyer's identification card, will base its determinations upon the following factors.

1. Identification cards to bid or buy at salvage pools, salvage disposal sales, or through insurance companies shall be available to any person, business, or corporation, or licensed employee thereof, possessing a valid used car dealer's license, a valid auto recycler's license, or a valid auto dismantler's license. Any one of these dealers' licenses may originate in or out of the state of Louisiana.

2. Completion of Official Used Motor Vehicle and Parts Commission Application Forms. Payment of Louisiana state general sales tax is due on all vehicles purchased at a salvage pool or salvage disposal sale and applicant must certify that applicant will faithfully adhere to this requirement.



B. The buyer's identification card shall include the name, address, driver's license number, any one of the aforementioned dealers' license numbers, physical description, and signature of the applicant and the name and address of the employer of the applicant. The buyer's identification number to be prefixed with BI, followed by an electronic number. Cards obtained for the buyers will be \$25 each for Louisiana resident and \$200 each for out-of-state resident. Out of state buyers must provide proof that they are a licensed used motor vehicle dealer, auto recycler, auto dismantler or employee thereof. A duplicate identification card will be issued to all buyers that will consist of individual's name, driver's license number, Social Security number, dealership name, dealer number, salesman number, photograph and the individual's signature. This card must be carried with the individual and produced on demand while conducting the business for which this license has been issued. Applicants may provide a copy of the license. However, if the commission has reasonable cause to suspect that the copy is forgery or inaccurate, then the commission may require the applicant to produce a certified copy of the license.

C. The buyer's identification card shall be carried upon the cardholder's person and same displayed to owner, manager, or person in charge of any salvage pool or salvage disposal sale, representative of the commission or any identifiable law enforcement agent of the state, city or municipality. The buyer's identification card is not transferable or assignable. Physical description and signature of cardholder must be compared with cardholder's driver's license for valid identification by owner, manager, or person in charge of any salvage pool or salvage disposal sale. It shall be the duty of the owner, manager or person in charge of any salvage pool or salvage disposal sale to refuse to sell to any person any wrecked or repairable motor vehicle if such person does not display a valid buyer's identification card.

1. Each buyer's identification cardholder may be accompanied to any salvage pool or salvage disposal sale by a mechanic or other technical expert of his choice, prior to the actual sale. At the time of the actual bidding, only valid bid cardholders shall be present.

2. A technical expert is one who is knowledgeable in a specialized field, that knowledge being obtained from either education or personal experience, regarding a subject matter about which persons having no particular training are incapable of forming an accurate opinion or making a correct deduction.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 32:762.

**HISTORICAL NOTE:** Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1064 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:259 (April 1989), LR:1058 (December 1989), amended by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 28:1588 (July 2002), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 30:2481 (November 2004).

## Chapter 36. Motor Vehicle Trade Shows

### §3601. Definitions

**Exhibitor**—a nonresident dealer who meets the definition of a used motor vehicle dealer subject to license under R.S. 32:773, but holds a current dealer license in another state and whose Louisiana business is limited to participation in vehicle trade shows or expositions in this state.

**Manufacturer or Distributor**—any person, firm, association, corporation or trust, resident or nonresident who fabricates, manufactures, or assembles new and unused vehicles or who in whole or in part maintains distributor representatives licensed under R.S. 32:773.

**Permit**—a temporary license issued to a licensed used motor vehicle dealer, exhibitor, manufacturer or distributor, to display vehicles at a vehicle trade show or exposition. The permit issued shall be for the duration of the trade show only and shall not exceed 14 days.

**Promoter**—any Louisiana resident, domestic firm, association, corporation, or trust, who alone or with others assumes the financial responsibility of a vehicle trade show or exposition in which vehicles are displayed by dealers, manufacturers or distributors, licensed under R.S. 32:773.

**Trade Show**—a controlled event in which a promoter charges or barter for booth space and/or charges for spectator entrance in which three or more used motor vehicle dealers exhibit vehicles.

**Used Motor Vehicle Dealer**—a dealer subject to license under R.S. 32:773.

**Vehicle**—any new or used motor home, motorcycle, motor scooter, ATV, watercraft, boat, or boat with an inboard or outboard motor attached and shall also include new and used trailers, recreational trailers, semi-trailers and travel trailers. Motor manufacturer of motor homes, motorcycles, motor scooters, ATV's, watercraft, boats, or a boat with an inboard or outboard motor attached.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 32:772.E.

**HISTORICAL NOTE:** Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 16:113 (February 1990), amended LR 25:1792 (October 1999).

### §3603. License, Fees and Applications

A. Promoters of motor vehicle trade shows shall be required to obtain a license from the Louisiana Used Motor Vehicle and Parts Commission and shall consist of the following:

1. application for license shall be on forms prescribed by the commission and shall require such information as the commission deems necessary to enable it to determine the qualifications and eligibility of the applicant;

2. a license fee of \$100;

3. a promoter's license shall be for one calendar year and shall expire on December 31;

4. a promoter shall also be required to obtain a permit for any trade show or exposition from the LUMVPC;

5. a permit fee of \$50 will be charged for each show.

B. An exhibitor shall be required to obtain a permit to display vehicles in a trade show or exposition which shall consist of the following:

1. an oath or affirmation that the exhibitor has complied with all registration requirements of the state in which he conducts his business including any requirements pertaining to posting of bond and demonstration of fiscal responsibility;

2. a notarized copy of the dealer's current license issued in the state in which he conducts his business;

3. the name, site, and dates of the show or exposition for which an exhibitor's permit is sought and the name and address of the promoter of that show or exposition;

4. such other pertinent information consistent with the safeguarding of the public interest and public welfare;

5. an application fee of \$100.

C. A used motor vehicle dealer shall be required to obtain a permit to display vehicles in trade shows or expositions and consist of the following:

1. an application giving the dealer name, address and current dealer number;

2. a licensed used motor vehicle dealer who participates in a motor vehicle show or exposition shall not be deemed to have an additional place of business at that show or exposition and shall not be charged any permit fees.

D. All applications for permits received within five days of the start of the trade show or exposition shall be charged a \$50 late processing fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:772.E.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 16:113 (February 1990), amended LR 19:1021 (August 1993), LR 25:1792 (October 1999).

### **§3605. Qualifications and Eligibility of Motor Vehicle Trade Shows**

A. Promoters of motor vehicle trade shows or expositions in which a dealer, manufacturer, or distributor, which is required to be licensed under R.S. 32:773, displays vehicles, are required to obtain a permit from the LUMVPC no later than 60 days prior to the start date of the vehicle trade show and shall give the start date, ending date, location of the proposed trade show or exposition, and the type of vehicles to be promoted.

B. Within 10 days of the start of the event, the promoter shall also furnish a complete list of all licensed Louisiana dealers who will participate. This list shall also include the dealer's current dealer number.

C. A promoter may invite exhibitors to attend the trade show or exposition by providing proof to this commission that:

1. all Louisiana dealers who sell the type vehicles being promoted, starting within a 50-mile radius of the proposed location of the trade show or exposition, have been contacted and given the opportunity to attend and space is still available;

2. the exhibitor invited is a greater distance away than a Louisiana dealer selling the same make, model or brand and that the Louisiana dealer has declined to attend; or

3. the exhibitor invited will only display a make, model, or brand not sold by any Louisiana dealer.

D. If the majority of local Louisiana licensed dealers in a trade show area decline to attend, the commission shall have the authority to prohibit any trade show.

E. A promoter is required to keep all records of attending dealers and all records of dealers that have declined to attend a trade show or exposition for a period of five years.

F. A manufacturer or distributor may exhibit vehicles through a licensed dealer and may only display suggested list price.

G. A minimum of three Louisiana dealers will be required for all trade shows. Of the three Louisiana dealers, each dealer must represent a separate company or corporation.

H. Any promoter who violates any provisions of these rules and regulations shall be subject to the civil penalties under R.S. 32:780.

I. The executive director may, upon approval by the commission, suspend or modify any portion or portions of these rules and regulations herein when it is in the best interest of the community in which the trade show is being held.

J. The commission may deny an application for a permit for any licensed used motor vehicle dealer or manufacturer for any reason it feels to be in the best interest of the trade show to be held.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:772.E and 32:774.E.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 16:113 (February 1990), amended LR 19:1021 (August 1993), LR 25:1792 (October 1999).

### **§3606. Off-Site Displays—Marine Products**

A. The commission must approve all off-site displays of new marine products. A request for an off-site display must be received and approved by the commission seven days prior to the commencement of the display.

B. The location of any off-site display must be within the dealer's defined area of responsibility or within his manufacturer's contracted agreement for the make and model to be displayed.

C. The licensee participating in an off-site display of his product is not required to contact all dealers within a 50-mile radius.

D. Each off-site display of marine products is limited to:

1. one marine dealer;
2. nine days and four displays a year. An off-site display will be permitted at the same location every six months.

E. The number of vehicles at any off-site display of marine products will be left to the discretion of the commission, with a maximum of 20 vehicles per licensee, per display.

F. The presence of any sales personnel, business cards, brochures, pricing sheets and other points of sales devices will be allowed to answer consumer questions. However, marine products cannot be delivered from that off-site display location.

G. Any licensee participating in an off-site display without the approval of the commission will be in violation of R.S. 32:775(A)(7)(d) and will result in a minimum penalty of \$500 per vehicle, per display for the first offense.

H. A licensee must furnish a liability insurance binder to the owner of the off-site property. The same liability binder with the off-site property and owner listed must be furnished to the commission with the Off-Site Display Form.

I. This policy is separate from the rules and regulations pertaining to trade shows.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:772 (E).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 30:1018 (May 2004).

#### **§3607. Off-Site Displays—Motorcycles, ATV's and RV's**

A. The commission must approve all off-site displays of new motorcycles, new ATV's, and new RV's. A request or an off-site display must be received and approved by the commission seven days prior to the commencement of the display.

B. The location of any display must be within the dealer's defined area of responsibility for the make and model to be displayed.

C. Each off-site display is limited to 30 days. However, there will not be a limit on the number of off-site displays allowed per year, per licensee.

D. The number of vehicles at any off-site display will be left to the discretion of the commission, with a maximum of six vehicles per licensee, per display.

E. The presence of any sales personnel, business cards, brochures, pricing sheets, or any other points of sale device will not be allowed and will constitute a violation by the dealer of the laws of the rules and regulations of the commission. A 2' x 3' sign indicating the dealership name, address and telephone number is allowed.

F. Any licensee participating in an off-site display without the approval of the commission will be in violation of R.S. 32:775(A)(7)(d) and will result in a minimum penalty of \$500 per vehicle, per display for the first offense.

G. This policy is separate from the rules and regulations pertaining to trade shows.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:772 (E).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 30:1019 (May 2004).

## **Chapter 37. Changes to be Reported to Commission**

### **§3701. Changes to be Reported to Commission and Fee Assessment**

A. Any changes of address, ownership or employment by a dealer shall be reported to the commission within 10 days of the change. A picture of the new location must be sent with notification. A fee of \$100 will be charged each time a dealer changes his business location.

B. The dealer will notify the commission when a salesman's employment is terminated by returning the salesman's certificate as set out in Chapter 31.

C. Each salesman shall surrender his identification card to the commission and obtain a new license for the new location before again engaging in the business as a salesman for another used motor vehicle dealer.

D. Any change which renders no longer accurate any information contained in an application for dealer or automotive dismantler license filed with the commission shall be amended within 30 days after the occurrence of the change on the form prescribed by the commission, accompanied by the appropriate fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:774.B(4)(g).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1064 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:259 (April 1989), LR 18:1117 (October 1992).

## **Chapter 39. Business Transactions**

### **§3901. Register of Business Transactions**

A. Every used motor vehicle dealer and automotive dismantler and parts recycler shall keep a register and/or records of all purchases and sales of motor vehicles for three years from the date of purchase or sale, showing the make, model, year, style, vehicle identification number, and name and address of the purchaser or seller of the motor vehicle. Such records shall include all titles, bills of sale, temporary tag books, monthly sales reports, consignment agreements, and inventory and parts records. A salvage pool or salvage disposal sale must maintain a register of all purchases and sales of motor vehicles for three years from the date of purchase or sale, showing the make, model, year, style, vehicle identification number, and name and address of the purchaser or seller of the motor vehicle. Such registers shall include all titles. The salvage pool or salvage disposal sale may maintain its records electronically.

B. Such registers and/or records shall be made available for inspection by the Used Motor Vehicle and Parts Commission representatives or identified law enforcement officers of the state, parish and municipality where the business of the used motor vehicle dealer, automotive dismantler and parts recyclers, salvage pool or salvage disposal sale is located, during reasonable business hours or business days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:757.A-B.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1064 (November 1985), amended by Office of the Governor, Used Motor Vehicle and Parts Commission, LR 28:1588 (July 2002).

## Chapter 43. License Renewal

### §4301. Period for Renewals

A. Applications should be submitted by November 1 of each year. If applications have not been made for renewal of existing licenses, such licenses shall expire December 31 and it shall be illegal for any person to represent himself as a dealer thereafter. The commission shall issue all new licenses by January 10 of each year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:774.B(4).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1064 (November 1985).

## Chapter 44. Educational Seminar

### §4401. Required Attendance

A. On or after January 1, 2005, every applicant for a used motor vehicle dealer's license must attend a four-hour educational seminar approved and conducted by the Used Motor Vehicle and Parts Commission.

1. The seminar will be conducted by employees of the Used Motor Vehicle and Parts Commission and will be held at the office of the commission located at 3132 Valley Creek Drive, Baton Rouge, Louisiana, 70808.

2. The seminar will be held once a month on the first Monday of each month beginning at 9 a.m. and ending at 1 p.m.

3. As a courtesy to existing dealers, educational seminars will be conducted throughout the state once a year.

4. Any dealers who are found guilty of violations of commission laws and/or rules and regulations will be required to attend.

5. There will be no charge for attendance to the educational seminar.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:774B.(3)(b)(i)-(iv).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 28:2351 (November 2002), amended LR 30:436 (March 2004).

### §4403. Certification

A. Upon applying for a 2005 used motor vehicle dealer's license, the applicant must attach a copy of the certificate of completion which documents that the dealership's general manager, office manager, title clerk, or other responsible representative of the dealership has attended the four-hour educational seminar. If the applicant has not completed the educational seminar, he must provide evidence that he has registered to attend such seminar within 60 days after issuance of the license.

B. The certificate shall list the participant's name and title, name and address of the used motor vehicle dealer, date of completion and signature of instructor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:774.B (3)(b)(i).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 28:2351 (November 2002), amended LR 30:436 (March 2004).

### §4405. Educational Program

A. The educational seminar will consist of information pertaining to the Used Motor Vehicle and Parts Commission, Department of Revenue and Taxation, Office of Motor Vehicles, Wildlife and Fisheries, Motor Vehicle Commission and Attorney General's Office. The items to be reviewed are as follows:

1. LUMVPC—background of the agency, laws, rules and regulations, license requirements, area of responsibility, complaint procedures, hearing procedures and non-delivery of titles;
2. LMVC—finance licenses;
3. Revenue—submission of monthly sales reports and collection of taxes;
4. Office of Motor Vehicles—non-delivery of titles, certificates of title and completion of titles by dealers;
5. Wildlife and Fisheries—registration of marine products;
6. Office of Attorney General—civil and criminal matters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:774.B.(3)(b)(i)-(iv).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 28:2352 (November 2002), repromulgated LR 28:2511 (December 2002).

## Chapter 45. Complaints

### §4501. Complaints

A. All forms of complaints made to the commission must be made on the complaint form provided by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:776(A)(3).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1065 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:260 (April 1989), amended by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 30:1019 (May 2004).

## Chapter 47. Hearing Procedures

### §4701. Hearing Officer

A. A hearing may be conducted by a hearing officer designated by the chairman.

B. The hearing officer shall have all the powers of the commission in connection with the hearing and shall have authority to issue subpoenas, order the taking of depositions, administer oaths, hear testimony, admit evidence, make rulings on objections and motions, and prepare a proposed order consisting of findings of fact and conclusions of law and submit the proposed order to the commission for its consideration.

C. Any party who feels that he cannot receive a fair and impartial hearing from the hearing officer shall make a motion either orally at the time of the hearing or in writing requesting that such hearing officer withdraw from the case. That request must set forth the specific grounds in accordance with LSA C.C.P. art. 151. The hearing officer may withdraw without further proceedings and immediately refer the matter to the chairman for reassignment; otherwise, the request shall be heard before the commission sitting at a regular monthly meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:776.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 25:246 (February 1999).

### §4703. Time for Hearing

A. The time set for a hearing, specified in the notice, shall not be less than 15 days after the date the notice is completed.

B. Any request for a continuance of a hearing shall be made in writing in a reasonable time prior to the hearing and shall state the reasons for the request. The hearing officer is authorized to rule on the motion for continuance. The hearing may be continued from time to time as announced openly before the hearing is recessed without further notice or otherwise by giving reasonable notice less than 15 days before the hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:776.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 25:246 (February 1999).

### §4705. Subpoenas

A. Subpoenas for the attendance of witnesses, and/or for the furnishing of information required by the commission, and/or for the production of evidence of records of any kind shall be issued by the hearing officer. Subpoenas shall be served and a return made in any manner prescribed by general civil law.

B. Any party to a hearing desiring the attendance of witnesses upon his behalf shall have the right to seek compulsory attendance of such witnesses and the production of relevant documents provided said party shall file a list of names and addresses of such witnesses with the hearing officer at least 10 days before the date set for the hearing.

C. Upon the failure of any person to obey a subpoena, upon the refusal of any witness to be sworn or make an affirmation, or to answer a lawful question put to him in the course of the hearing, the hearing officer may institute appropriate judicial proceedings under the laws of the state for an order to compel compliance with the subpoena or the giving of testimony, as the case may be. The hearing shall proceed, so far as it is possible, but the hearing officer or the commission, in its discretion, at any time may continue the proceeding for the purpose of taking the evidence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:776.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 25:246 (February 1999).

### §4707. Rights of the Parties

A. Any party whose rights may be affected at any hearing shall have the right to appear personally and by counsel, to cross-examine adverse witnesses, to produce evidence and witnesses in their own behalf and to provide arguments on all issues involved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:776.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 25:246 (February 1999).

### §4709. Evidence

A. The commission shall not be bound by the technical rules of evidence and may admit material and relevant evidence. The principles underlying the *Louisiana Code of Evidence* shall serve as a guide to the admissibility of evidence in hearings before the commission. The specific exclusionary rules and other provisions shall be applied only to the extent that they tend to promote the purposes of proceedings before the commission, in the discretion of the chair or the presiding member.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:776.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 25:246 (February 1999).

### §4711. Record of the Hearing

A. The record in every individual proceeding shall include the following:

1. all pleadings, motions, and intermediate rulings;
2. evidence received and considered;
3. a statement of matters officially noticed;
4. questions and offers of proof, objections and rulings thereon;
5. the proposed order;
6. any decision, opinion, or report by the person(s) presiding at the hearing;
7. all staff memorandum or data submitted to the hearing officer of the commission in connection with their consideration; and

8. the minutes from the commission meeting in which action was taken on the proposed order.

B. A recording and a transcript of the hearing will be performed by a certified court reporter. The record and the file containing the pleadings will be maintained in a place designated by the hearing officer. Any party requesting a transcript of the hearing will pay a fee according to a schedule established by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:776.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 25:247 (February 1999).

#### **§4713. Rulings**

A. When a hearing officer is used and a majority of the commissioners have not heard the case or read the record, any decision adverse to any party other than the commission shall be postponed until a copy of the proposed order is served upon all parties and each is given an opportunity to reply, either orally or in writing. The proposed order shall be prepared by the person(s) who conducted the hearing. A statement of the reasons for the order and each issue of fact or law necessary to the order shall accompany the proposed order. This requirement may be waived by the written stipulation of all parties, or where there is no contest (as in the failure of a party to appear after due notice), the commission may eliminate compliance therewith.

B. Any party affected by the proposed order may prepare a written brief which must be filed with the commission within 10 days from receipt of the proposed order, or the affected party may present an oral response at the next monthly meeting of the commission.

C. During its regular monthly meetings (or upon a special meeting as called by the chairman and upon reasonable notice to all parties), the commission shall make the final decision based on the record and the proposed order.

D. A final decision or order adverse to a party in an adjudication proceeding shall be in writing. A final decision shall include findings of fact and conclusions of law. Parties shall be notified either personally or by mail of any decision or order along with their attorney of record, if any. The parties by written stipulation may waive, and the commission in the event there is no contest may eliminate, compliance with this Subsection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:776.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 25:247 (February 1999).

#### **§4714. Hearings on Disputes under the Area of Responsibility**

A. When disputes arise under the Area of Responsibility Law by the filing of an objection by an affected dealer pursuant to R.S. 32:773.2(D) and (F), and when no party has been cited for a violation, the commission shall not be

responsible for the presentation of any evidence of the factors set forth in R.S. 32:773(4)(a) and R.S. 32:773.2F(5). Each party is required to set forth evidence in support of its contentions.

B. Each party shall be responsible for its own respective costs; however, the losing party or parties shall pay the costs of the commission, including the court reporter's fees, any per diem rate, and mileage for any commissioner attending a hearing as a special fixing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:776.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 29:2074 (October 2003).

#### **§4715. Rehearings**

A. No rehearing shall be permitted from any ruling of the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:776.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 25:247 (February 1999).

## **Chapter 48. Designation of Area of Responsibility for Marine Products**

#### **§4801. Procedure of Designation of Area of Responsibility**

A. Beginning August 16, 2004, the commission shall notify by certified mail each marine product manufacturer/distributor, who has prior to that date failed to designate an area of responsibility for each of its existing dealers, that they must designate an area of responsibility for each dealer within 30 days following receipt of the notification. Failure to respond to the commission within 30 days shall constitute an absence of designation thereby mandating the areas of responsibility provided for in R.S. 32:771(2)(a)(i)(ii).

B. Following August 16, 2004, without such notification from the commission, each marine product manufacturer/distributor shall be responsible for designating an area of responsibility for any new dealer which has not had its area previously designated.

C. Thereafter, any marine product manufacturer/distributor which was not licensed with the commission prior to August 16, 2004, shall be notified by the commission by certified mail of their responsibility to designate an area of responsibility for their dealers. Failure to designate an area of responsibility for each dealer within 30 days following receipt of the notification shall constitute an absence of designation thereby mandating the area of responsibility provided for in R.S. 32:771(2)(a)(i) and (ii).

D. Any changes in the area of responsibility once designated must meet criteria as set forth in R.S. 32:773.2(D).

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:773.1 and R.S. 32:773.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 30:2481 (November 2004).

**§4803. Uniform Procedures to Designate the Territory Assigned to a Marine Dealer**

A. On any occasion in which the marine product manufacturer/distributor has designated, an area of responsibility smaller in size to that provided for in R.S. 32:771(2)(a)(i) and (ii), the marine product manufacturer and/or distributor must furnish with the designation the uniform procedure to establish the community or territory that is assigned to a marine dealer. If the manufacturer/distributor fails to furnish a uniform procedure with its designation, the commission shall reject the designation and shall so notify the manufacturer/distributor of the rejection by certified mail. With the notice of rejection, the commission shall provide the manufacturer/distributor the opportunity to appeal the rejection to the commission in a hearing at the commission's monthly meeting.

B. Where the marine product manufacturer/distributor has provided the uniform procedure with its designation, the commission shall review the designation and advise the manufacturer/distributor within 10 days following receipt as to whether the designation has been accepted or rejected. If the designation has been rejected, the manufacturer/distributor shall be so notified by certified mail of the rejection and informed of the opportunity to appeal the rejection in a hearing at the commission's monthly meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:773.1 and R.S. 32:773.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 30:2482 (November 2004).

**Chapter 49. Independent Marine Surveyor**

**§4901. Procedure for Appointing Independent Marine Surveyor**

A. When a marine product manufacturer/distributor elects to appoint an Independent Marine Surveyor to inspect the marine dealer's inventory to determine whether the product has been altered or damaged to the prejudice of the manufacturer/distributor, the manufacturer/distributor shall notify the commission of the identity of the Independent Marine Surveyor within 15 days prior to the hearing before the commission. However, the manufacturer/distributor may post the identity of any pre-approved Independent Marine Surveyor with the commission.

B. The notice of appointment of Independent Marine Surveyor or the approved list shall contain the resume=, curriculum vitae, or qualifications of Independent Marine Surveyor.

C. The commission shall then promptly notify the dealer of the identity of the Independent Marine Surveyor as selected by the manufacturer/distributor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:771.

HISTORICAL NOTE: Promulgated by Office of the Governor, Recreational and Used Motor Vehicle Commission LR 30:2482 (November 2004).





**Title 46**  
**PROFESSIONAL AND OCCUPATIONAL STANDARDS**  
**Part V. Automotive Industry**  
**Subpart 3. Motor Vehicle Sales Finance**

**Chapter 71. General Provisions**

**§7101. Louisiana Motor Vehicle Commission**

A. The Louisiana Motor Vehicle Sales Finance Act is administered by the Louisiana Motor Vehicle Commission.

B. The office and domicile of the Louisiana Motor Vehicle Commission is 3519 Twelfth Street, Metairie, LA 70002.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:969.40(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 31:921 (April 2005).

**§7103. Definitions**

*Chapter*—R.S. 6:969.1, et seq.

*Commission*—Louisiana Motor Vehicle Commission.

*Consumer Credit Sale*—the sale of a motor vehicle on credit under which the seller acquires a purchase money security interest in the purchased vehicle, and incident to which a credit service charge is charged and the consumer is permitted to defer all or part of the purchase price or other consideration in two or more installments excluding the down payment. A *consumer credit sale* does not include a lease of a motor vehicle under any circumstance, whether or not the lease constitutes a true lease or financed lease within the context of the Louisiana Lease of Movables Act, R.S. 9:3301, et seq. A consumer credit sale may be secured by other collateral in addition to the purchased vehicle.

*Consumer Loan*—a loan of money or its equivalent made by a lender, the proceeds of which are used by the consumer to purchase or refinance the purchase of a motor vehicle, or which proceeds are used for personal, family, or household purposes, including debts created by the use of a lender credit card, revolving loan account, or similar arrangement, as well as insurance premium financing, with the lender acquiring a purchase money security interest in the purchased motor vehicle. A consumer loan may be secured by other collateral in addition to the purchased vehicle. The provisions of this Paragraph shall not apply to a consumer loan made pursuant to the Louisiana Deferred Presentment and Small Loan Act, R.S. 9:3578.1, et seq.

*Person*—an individual or corporation, partnership, limited liability company, trust, association, joint venture pool, syndicate, sole proprietorship, unincorporated organization, or any other form of entity not specifically listed herein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:969.40(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 31:921 (April 2005).

**Chapter 73. Licensing**

**§7301. License Requirement and Exception**

A.1. No person unless exempt from licensing under R.S. 6:969.36 shall engage in the business of:

a. making consumer loans or the origination of consumer credit sales;

b. taking assignments of and undertake direct collection of payments from or enforcing rights against consumers under a consumer loan or consumer credit sale;

2. without first filing an application, paying a non-refundable application fee and obtaining a license from the commission. An assignee may, however, collect and enforce consumer obligations of which it has taken assignment for three months without a license if the assignee notifies the commission in writing, the assignee promptly applies for a license, and the application is not rejected.

B. A license is required whether or not the applicant has one or more offices in this state.

C. A license is required for each office maintained in this state. If a licensee makes direct consumer loans to consumers at a seller's location, that location is not deemed to be a branch office of the lender.

D. All of the following shall be exempt from the licensing requirements of this Chapter:

1. supervised financial organizations;

2. trusts and trustee, including without limitation securitization trusts and trustees;

3. assignees with no offices in this state holding motor vehicle contracts on an interim basis for a period of 90 days or less;

4. governmental agencies, instrumentalities, or public entities organized by Act of Congress or the Legislature of Louisiana;

5. qualified pension plans when entering into an extension of credit to a plan participant;

6. bona fide pledgees of motor vehicle credit contracts;

7. persons holding motor vehicle contracts for servicing or collection on behalf of the actual owner of such obligations;

8. licensed new motor vehicle dealers to the extent that they regularly sell, assign, and transfer contracts originated by them to third party assignees within 60 days following origination. A licensed new motor vehicle dealer may retain at any one time, and from time to time thereafter, a maximum of 12 contracts for its own account without being subject to the licensing requirements of this Chapter.

E. The commission may waive the licensing and examination requirements for a subsidiary of an entity as described in Paragraph D.1.

F. The application shall be in writing, under oath, and in the form prescribed by the commission. The application shall contain: the name of the applicant; date of incorporation, if incorporated, date of formation if a partnership or limited liability company or other entity; the address where the business is to be conducted and similar information as to any branch office of the applicant in this state; the name and resident address of the owner, members or partners or, if a corporation or association, of the directors, trustees, and principal officers; and such other pertinent information as the commission may require to make an evaluation of the applicant.

G. No license shall be issued unless the commission, upon investigation, finds that the financial responsibility, business integrity and ability to properly conduct the business by the applicant's owner, partners if the applicant is a partnership, members if the applicant is a limited liability company, officers and directors if the applicant is a corporation, and the applicant if a sole proprietorship are such to warrant a belief that the business shall be conducted honestly and fairly within the purposes of this Chapter and they each meet the following requirements:

1. be 18 years of age or older and a citizen of the United States or a resident alien holding proper documentation to work in the United States;
2. be of good character and fitness; and
3. not been convicted of a felony in the previous ten years, notwithstanding that the conviction was expunged, set aside, or received a first offense pardon. The only felony conviction which shall not be considered for purposes of this Chapter is one which received a governor's or presidential pardon.

H. No license shall be issued in any name other than its legal name or assumed name properly filed in accordance with the statutes of this state and set forth in the license application. No license shall be issued in any name which may be confused with or which is similar to any federal, state, parish, or municipal governmental function or agency, or in any name which may tend to describe any business function or enterprise not actually engaged in by the applicant, or in any name which is the same as or so similar to that of any existing license as would tend to deceive the public, or in any name which would otherwise tend to be deceptive or misleading.

I. Each license expires December 31 and must be renewed annually by the licensee.

J. No license shall be sold or otherwise transferred.

K. A licensee shall give the commission 30 days prior written notice of any location change.

L. A licensee shall notify the commission in writing within 30 days after ceasing to do business in this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:969.40(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 31:922 (April 2005).

### **§7303. Denial of License**

A. The applicant shall be entitled to a hearing on the question of his qualifications for a license if the applicant requests such in writing to the commission and either of the following has occurred.

1. The applicant has received notification from the commission that his application has been denied.
2. The commission has not issued to the applicant a license and it has been 60 days since the date that the application for the license was filed with the commission.

B. The denial notice from the commission to the applicant shall be in writing and shall state, in substance, the commission's findings supporting the denial of the application. Such notice shall be sent certified mail, return receipt requested, to the primary business address on the application.

C. A request for a hearing based on the denial of an application must be received by the commission, in writing, within 15 days of the date that the commission mailed the denial notice to the applicant.

D. Upon receipt of the request for a hearing, the commission shall give the applicant at least 30 days written notice of the time and place of such hearing by certified mail addressed to the primary business address on the application.

E. The hearing will be conducted in accordance with the Administrative Procedure Act and the rules and regulations of the commission.

F. Within 30 days after a denial or revocation of a license, the licensee may apply for a review thereof by application to the district court for the parish of Jefferson in accordance with the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:969.40(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 31:923 (April 2005).

### **§7305. Renewal Application**

A. Annually by November 1 each licensee shall file a renewal application and pay a non-refundable renewal fee.

1. An annual renewal application received by the commission postmarked after December 1 shall be accompanied by a late filing fee, in addition to the annual renewal fee.

2. If the annual renewal application and renewal fee are not received postmarked by December 31, the license shall lapse without a hearing or notification, and the license shall not be reinstated; however, the person whose license has lapsed may apply for a new license. No new license shall be issued upon the filing of a new application by any person against whom any penalty or late fee has been imposed unless and until such penalty or late fee previously accrued under this Section has been paid, and the commission has determined that the applicant has the requisite qualifications for a license.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 6:969.40(D).

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 31:923 (April 2005).

### **§7307. Suspension, or Revocation of License**

A. Renewal of a license originally granted under this Chapter may be denied or a license may be suspended or revoked by the commission for any of the following grounds:

1. material misstatements in the application for a license;
2. failure to comply with any provision of this Chapter relating to motor vehicle credit transactions;
3. defrauding any consumer purchaser of a motor vehicle to the consumer's damage;
4. fraudulent misrepresentation, circumvention, or concealment by the licensee through whatever subterfuge or device of any of the material particulars or the nature thereof required to be stated or furnished to the purchasing consumer under this Chapter.

B. If the licensee is a person, it shall be sufficient cause for the suspension or revocation of a license that any officer, director, trustee, partner, or member of the licensee has so acted or failed to act as would be cause for suspending or revoking the license to such party as an individual.

C. Each licensee shall be responsible for the acts of any and all of its employees while acting as its agent, if such licensee after actual knowledge of such acts retained the benefits, proceeds, profits, or advantages accruing from such acts or otherwise ratified such acts.

D. No license shall be suspended or revoked by the commission except after a hearing in the form of an order to show cause. The commission shall give the licensee at least 30 days written notice of the time and place of such hearing which notice shall contain the grounds for the suspension or revocation of the license. The notice shall be sent by certified mail, return receipt requested, addressed to the primary business address on the application.

E. Any order suspending or revoking such license shall recite the grounds upon which the same is based. The order shall be entered upon the records of the commission and shall not be effective until after 30 days written notice thereof given after such entry forwarded by certified mail to the licensee at such primary business address on the application.

F. No revocation, suspension, or surrender of any license shall impair or affect the obligation under any motor vehicle credit contract or agreement entered into or acquired previously thereto by the licensee.

G. The hearing will be conducted in accordance with the Administrative Procedure Act and the rules and regulations of the commission.

H. Within 30 days after such suspension or revocation of a license, the licensee may apply for a review thereof by application to the district court for the parish of Jefferson in accordance with the Administrative Procedure Act.

I. Prior to the institution of commission proceedings regarding the revocation, suspension, annulment, or withdrawal of a license, when such action must be accomplished pursuant to the Administrative Procedure Act, R.S. 49:950, et seq.

1. The commission shall give notice by mail to the licensee, setting forth the facts or conduct which serve(s) as the commission's basis for such action. The notice shall advise the licensee that he is being offered an opportunity to participate in an informal meeting with a representative of the commission to show compliance with all lawful requirements for retention of the license, in conformity with R.S. 49:961(C).

2. The licensee shall have 15 calendar days from receipt of such notice to request, in writing, an informal meeting. Such informal meeting shall be held not less than 10 days nor more than 30 days following receipt of the licensee's request for the meeting, unless the commission determines that an extension is warranted.

3. Notwithstanding any other provision of this rule, if the commission finds that the public health, safety, or welfare imperatively requires emergency action, and incorporates a finding to that effect in an order to the licensee, summary suspension may be ordered pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 6:969.40(D).

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 31:923 (April 2005).

### **§7309. Fees**

A. All fees are non refundable.

B. License application fee per location—\$400.

C. License renewal fee and late penalty per location—\$400; late fee—\$100.

D. Change of location—no charge.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 6:969.40(D).

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 31:924 (April 2005).

## Chapter 75. Examination and Record Retention

### §7501. Examination

A. The commission shall have the power to examine all books, records and accounts of all persons licensed under this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:969.40(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 31:924 (April 2005).

### §7503. Records Retention

A. Each person required to be licensed under this Chapter shall maintain in its offices such books, records and accounts of its lending activities as the commission may prescribe by policy as required to determine whether such licensee is complying with the provisions of this Chapter and the rules, regulations and policies promulgated under the provisions of this Chapter included by not limited to the following:

1. the original or a copy of all documentation signed by the consumer, including but not limited to:

- a. note;
- b. disclosure statement;
- c. financing statement (or equivalent);

2. individual account of the borrower (ledger card or printable computer screen) showing the following:

- a. amount of loan;
- b. origination date;
- c. repayment terms;
- d. insurance charges, whether sold in connection with the loan or not;
- e. total finance charge;
- f. annual contractual percentage rate;
- g. date, amount and application of each payment;
- h. date and amount of late charges assessed;
- i. date and amount of deferral charges;
- j. remaining unpaid balance;
- k. due date of first payment;
- l. all changes in due date of payment;

3. all paid out accounts (including those paid out by renewal) must be filed separately and contain the following:

- a. interest rebate;
- b. itemized rebate of all insurance premiums;

4. accounts turned over to an attorney for collection:

- a. amount paid to attorney, including court costs and attorney fees shown as separate charges;
- b. receipt from Clerk of Court, evidencing court costs;

5. accounts reduced to judgment:

- a. same documents as for attorney accounts;
- b. receipt from Clerk of Court, evidencing any additional court costs;
- c. copy of signed judgment;

6. death claims:

- a. copy of death certificate;
- b. copy of all checks or other evidence of payment received from insurance company in payment of claim;
- c. copy of check evidencing payment to secondary beneficiary, where applicable;

7. insurance records:

- a. copy of master policy for each type of insurance sold to consumers;
- b. copy of rates approved by the Insurance Rating Commission, except for those established by the Louisiana Motor Vehicle Sales Finance Law;
- c. lenders will be expected to provide proof of compliance as set out by the commissioner of insurance;
- d. proof of remittance of premiums to the previous underwriter;

8. paid out accounts containing errors cited at the previous examination:

- a. must be separately filed or identified;
- b. must contain proof of correction of error, including copies of refund checks issued to consumers;

9. any other records that may be deemed necessary by the commission to determine compliance with the provisions of the Louisiana Motor Vehicle Sales Finance Law.

B. Period for Retention of Records. All records must be retained for at least two years after the account is paid in full, or any insurance coverage remaining in force after the account has been paid has lapsed, unless required by law to be retained for a longer period. Records are required to be kept indefinitely during the pendency of an investigation or enforcement proceedings involving alleged violations.

C. Variance. After considering the particular facts and circumstances of an individual licensed lender's recordkeeping procedures, and the public interest in promoting the efficiency and effectiveness of compliance examinations, the commission may formally grant a variance to a licensed lender to any requirement in this rule.

D. Such books, records, and accounts shall be maintained separate and apart from any other business which the agency is involved. If the licensee's books, records, and accounts are located outside the state, the licensee, at the commission's option, shall make them available to the commission at a location within the state convenient to the commission, or pay the reasonable and necessary expenses for the commission or its representatives to examine them at the place where they are maintained.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:969.40(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 31:924 (April 2005).

## Chapter 77. GAP Coverage

### §7701. Definition

A. GAP coverage covers a consumers deficiency balance between the net payoff of the consumers loan retail installment sales contract at the time of a loss and the amount paid by the consumers primary insurance after a vehicle is deemed a total loss due to any direct or accidental physical damages or unrecovered theft.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:969.40(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 31:925 (April 2005).

### §7703. Types of Coverage

A. Guaranteed Auto Protection (GAP) offered by a Property and Casualty (P&C) company licensed and regulated by the Louisiana Department of Insurance.

B. Guaranteed Auto Protection (GAP) offered by a Property Residual Value Insurer (PRVI) licensed and regulated by the Louisiana Department of Insurance.

C. Debt waiver or debt forgiveness agreements regulated by the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:969.40(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 31:925 (April 2005).

### §7705. Offer of Coverage

A. The seller shall and the extender of credit may offer a consumer the option of voluntarily purchasing GAP coverage in a transaction involving a consumer loan or consumer credit sale secured by a motor vehicle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:969.40(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 31:925 (April 2005).

### §7707. Debt Waiver or Debt Forgiveness Agreement

A. Debt waiver or debt forgiveness is an agreement whereby a extender of credit agrees with the consumer to waive any unpaid balance on a consumer loan or consumer credit sale due to a physical damage total loss or constructive loss or unrecovered theft to the covered collateral secured by an eligible security device.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:969.40(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 31:925 (April 2005).

### §7709. Insurance Coverage

A. An extender of credit may insure its debt waiver or debt forgiveness agreement by an insurance company licensed by the Louisiana Department of Insurance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:969.40(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 31:925 (April 2005).

### §7711. Debt Waiver or Debt Forgiveness Requirements

A. The retail installment sales contract must have an addendum where upon the extender of credit agrees to waive the consumers debt for the difference between the amount paid by the consumers primary insurance and the net payoff of the contract.

B. There shall be a clear statement in the waiver form that is given to the consumer that the consumer's debt is waived. The following is an example:

The extender of credit hereby agrees, by acceptance of this Addendum as an amendment to the Retail Installment Sales Contract upon assignment, to waive the consumers liability for the difference between the amount owed (excluding past due amounts, payment extensions, insurance or other charges) under the consumers retail installment sales contract and the actual cash value of the consumers vehicle as of the date of the total loss of the consumers vehicle resulting from a peril covered by the consumers primary insurance company.

C. The consumer shall have the right to cancel the debt waiver or debt forgiveness agreement and shall be entitled to a refund of the premium paid no less favorable to the consumer than the rule of 78's or pro-rata.

D. The agreement shall contain a statement of how the unpaid net balance is determined. In making this determination, unearned interest, loan charges, late charges, any delinquent payments, any uncollected service charges, refundable prepaid taxes or fees or any other proceeds the consumer may recover by cancelling insurance coverages, service contracts or warranties, disposition fees, termination fees, penalty fees or other items built into or added to the initial loan balance are not covered by the agreement.

E. There shall be no deductible provision in the agreement.

F. There may be a limited waiver of subrogation which shall apply only to sums actually paid or waived on behalf of the consumer.

G. The claim shall be paid within 60 days of the incident or 30 days from filing of the police report.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:969.40(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 31:925 (April 2005).

### §7713. Filing

A. No person shall offer for sale a debt waiver or debt forgiveness agreement in this state until its sale materials, agreements, insurance policies and any and all documents used in connection with its offer and sale of such agreements shall be filed with the commission.

B. Within 30 days of the receipt of the filing, the commission will notify the filing party of any additional requirements or grant its approval for the sale of the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:969.40(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 31:925 (April 2005).

## Chapter 79. Powers of Commission

### §7901. Subpoenas and Oaths

A. The commission shall have the power to issue subpoenas to compel the attendance of witnesses and the production of documents, papers, books, records, and other evidence before it in any matter over which it has jurisdiction, control, or supervision pertaining to this Chapter. The commission shall have the power to administer oaths and affirmations to any person whose testimony is required.

B. Whenever a person becomes licensed by the commission, pursuant to this Chapter, such person shall provide a physical address to the commission that may be used as a basis for service or notification of any order or other issuance or communication by the commission to such person. Whenever such person changes his physical address, it shall notify the commission at least 30 days prior to the change. Notification or service of any order, notice, or other issuance or communication by the commission by certified mail to the address most recently provided to the commission by the person shall satisfy all requisites of service required for any registration, administrative enforcement, or other action, undertaken by the commission pursuant to the Administrative Procedure Act or otherwise, in connection with such person.

C. If any person shall refuse to obey any such subpoena, to give testimony, or to produce evidence thereby, the commission may apply to the 24th Judicial District Court for the Parish of Jefferson for an order awarding process of subpoena or subpoena duces tecum out of the district court for the witness to appear before the commission and to give testimony and to produce evidence as required thereby.

D. If any person served with any such subpoena shall refuse to obey the same and to give testimony and to produce evidence as required there, the commission may apply to the 24th Judicial District Court for the Parish of Jefferson for an attachment against such person, as for a contempt.

E. The commission, if it has reason to believe that any licensee or any other person has violated any of the provisions of this Chapter relating to motor vehicle credit transactions shall have the power to make such investigations as it shall deem necessary and, to the extent necessary for this purpose, the commission may examine such licensee or any other person and shall have the power to compel the production of all relevant books, records, accounts and documents.

F. Any consumer having reason to believe that this Chapter relating to the consumer's motor vehicle credit transaction has been violated may file with the commission a written complaint setting forth the details of such alleged violation. The commission, upon receipt of such complaint, may inspect the pertinent books, records, letters of the lessee

and of the consumer involved relating to such specific written complaint.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:969.40(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 31:925 (April 2005).

### §7903. Cease and Desist Orders

A. The commission shall have the power to issue cease and desist orders to protect the public welfare.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:969.40(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 31:926 (April 2005).

### §7905. Penalties

A. In addition to any other authority conferred upon the commission by this Chapter the commission may impose fines and penalties against persons violating the provisions of this Chapter and the rules and regulations adopted thereunder.

B. The commission may impose a fine on any person who willfully violates any provision of this Chapter and the rules and regulations adopted thereunder in an amount not to exceed \$5,000 per violation.

C. The commission may impose a fine on any person who originates or purchases a contract subject to this Chapter of \$1,000 for each contract, who has not first obtained a license from the commission.

D. The commission may render judgment for costs, or any part thereof, against any party to proceedings held or scheduled to be held before the commission as it may consider equitable. These costs shall include but shall not be limited to court reporter fees, commission attorney fees, the mileage and per diem of the commissioners, and other applicable reasonable costs.

E. Any person who is required to be licensed under this Chapter and who fails to timely purchase a license herein provided may be ordered by the commission to pay a penalty of \$100 in addition to the regular license fee herein provided.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:969.40(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 31:926 (April 2005).

### §7907. Advisory Opinions

A. The commission, its employees and attorneys may issue advisory opinions and interpretations regarding this Chapter. Advisory opinions and interpretations of the commission or its employees and attorneys shall not be considered rules requiring compliance with the rule making process under the Administrative Procedure Act.

B. Any actions taken by an extender of credit pursuant to any opinion or interpretation made by the commission, its officers or attorneys shall not be deemed to be a violation of this Chapter.

C. The commission or its employees and attorneys shall have no liability to any person with respect to the issuance of a ruling or interpretative opinion made under this Chapter.

D. A request for an advisory opinion or interpretation shall be in writing and shall set forth the specific statute or rules and regulations to which the request relates.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:969.40(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 31:926 (April 2005).

#### **§7909. Declaratory Orders and Rulings**

A. The commission may issue a declaratory order and ruling pursuant to the Administrative Procedure Act which has the same status as a commission decision or order in an adjudicated case.

B. A request for a declaratory order and ruling shall be made in the form of a petition to the commission. The petition shall include, but shall not be limited, to the following:

1. the name and address of petitioner;
2. specific reference to the statutes or rules and regulations to which it relates;
3. a statement of the manner in which the petitioner is aggrieved by the statute or rule or by its potential application to it, or in which it is uncertain of its effects;

4. a statement of whether an oral hearing is desired;

5. other information appropriate for the commission's deliberation on the request.

C. The petition will be considered by the commission at its next regularly scheduled meeting provided that the petition has been filed at least 30 days prior to that meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:969.40(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 31:926 (April 2005).

#### **§7911. Cooperative and Reciprocal Agreements**

A. The commission may enter into cooperative and reciprocal agreements with the regulatory authorities of the federal government or any state for the periodic examination of persons engaged in the business regulated by this Chapter and may accept reports of examination and other records from such authorities in lieu of conducting its own examinations. The commission may enter into joint actions with other regulatory bodies having concurrent jurisdiction or may enter into such actions independently to carry out its responsibilities under this Chapter and assure compliance with the laws of this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:969.40(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Motor Vehicle Commission, LR 31:927 (April 2005).





# Title 46

## PROFESSIONAL AND OCCUPATIONAL STANDARDS

### Part V. Automotive Industry

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